

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cloey Romans	Team: Squad #15	CCRB Case #: 202103703	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input checked="" type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/16/2021 2:00 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 12/16/2022	Precinct: 77
Date/Time CV Reported Fri, 06/18/2021 2:05 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/18/2021 2:05 PM

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SDS Eric Samuels	01464	923106	WARRSEC
2. DT3 Frank Ingenito	02927	950618	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Joseph Russo	04054	939390	JTTF
2. Jason Garcia		919084	

Officer(s)	Allegation	Investigator Recommendation
A . DT3 Frank Ingenito	Abuse: Detective Frank Ingenito entered § 87(2)(b)	§ 87(2)(b)
B . SDS Eric Samuels	Abuse: Sergeant Eric Samuels entered § 87(2)(b)	§ 87(2)(b)
C . SDS Eric Samuels	Discourtesy: Sergeant Eric Samuels spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D . SDS Eric Samuels	Off. Language: Sergeant Eric Samuels made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 18, 2021, § 87(2)(b) submitted the following complaint with the CCRB via their Call Processing System.

At approximately 2 p.m. on June 16, 2021, Detectives Frank Ingenito and Joseph Russo of the Warrant Section conducted surveillance at § 87(2)(b) apartment, located at § 87(2)(b) Brooklyn, in order to arrest § 87(2)(b) for an active ICARD. Upon observing § 87(2)(b) exit his apartment, Det. Ingenito and Det. Russo began to effect an arrest of § 87(2)(b) when § 87(2)(b) fled back into his apartment and locked himself inside. Det. Ingenito called Sergeant Eric Samuels who arrived at the location and authorized Det. Ingenito to make forcible entry into the apartment and arrest § 87(2)(b). Det. Ingenito and Sgt. Samuels proceeded to enter the apartment (**Allegations A and B: Abuse of Authority** – § 87(2)(g)). After entering the apartment, Det. Ingenito and Sgt. Samuels arrested and removed § 87(2)(b). Sgt. Samuels provided § 87(2)(b) with his business card and referred to her as “baby”, “babe”, and “sugar” multiple times during the interaction (**Allegation C: Discourtesy** – § 87(2)(g)). **Allegation D: Offensive Language** – § 87(2)(g) § 87(2)(b) was removed to the 81st Precinct Stationhouse and then Brooklyn Central Booking, where he was released the following day.

§ 87(2)(b) arrest on June 16, 2021, is numbered § 87(2)(b) (Board Review 01) and is linked to ICARD § 87(2)(b) (Board Review 02). No additional arrests or summonses were issued.

No BWC video was yielded. § 87(2)(b) provided a cellphone recording, which is linked in the case file as IA #64 (Board Review 03). No other surveillance or video evidence was obtained during the investigation.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Frank Ingenito entered § 87(2)(b)

Allegation (B) Abuse of Authority: Sergeant Eric Samuels entered § 87(2)(b)

It is undisputed that Detective Ingenito and Sergeant Samuels damaged § 87(2)(b) front door and entered his apartment.

§ 87(2)(b) was interviewed on July 9, 2021, and August 25, 2021. § 87(2)(b) was interviewed on July 15, 2021. Detective Frank Ingenito was interviewed on June 23, 2022. Detective Joseph Russo was interviewed on June 30, 2022.

§ 87(2)(b) Brooklyn, is a two-floor apartment building with a restaurant on the ground level of § 87(2)(b). The residential portion of the building is accessible only through an alley parallel to § 87(2)(b) and behind the restaurant. The alley is only accessible from § 87(2)(b). There are two residential apartments in the building, one apartment on the bottom floor and one apartment on the top floor. The exterior door for the two apartments opens immediately to a split-level staircase, with apartment § 87(2)(b) downstairs and apartment § 87(2)(b) upstairs. There is not a second main door for apartment § 87(2)(b) and the exterior front door for the two apartments can be seen from standing at the top of the staircase for apartment § 87(2)(b). This exterior door is the only entrance and exit for apartment § 87(2)(b). § 87(2)(b) resides on the § 87(2)(b) floor with his family (Board Review 24).

§ 87(2)(b) and § 87(2)(b) stated that on the afternoon of June 16, 2022, § 87(2)(b) exited his apartment and began walking through the alley towards § 87(2)(b) where a black sedan with tinted windows was parked on § 87(2)(b) facing the alley. § 87(2)(b) could not see who was inside the

vehicle but thought that it was suspicious, so § 87(2)(b) turned around to reenter his apartment where § 87(2)(b) and their children were. The vehicle turned into the alley and followed § 87(2)(b) but no verbal commands were made and § 87(2)(b) did not see anyone exit the vehicle. § 87(2)(b) entered his apartment and locked the door behind him. § 87(2)(b) told § 87(2)(b) that he believed police had followed him and that he thought they were police because there was no one else who would follow him. § 87(2)(b) and § 87(2)(b) provided consistent testimony that they immediately heard loud knocking on the front door and the individuals announced themselves as “NYPD” who “had a warrant for § 87(2)(b) and that § 87(2)(b) “needed to exit the building immediately.” The officers said that if § 87(2)(b) did not exit the building, they would break the door down. § 87(2)(b) and § 87(2)(b) did not take action. An officer then called § 87(2)(b) cellphone and told her that § 87(2)(b) needed to come downstairs because he has a warrant, and they will break the door if § 87(2)(b) does not come out. § 87(2)(b) refused to exit the apartment. The call was disengaged, and § 87(2)(b) began making a video recording on her cellphone when she heard more banging against the front door. The officers used a battering ram which caused a large hole in the front door and for the door to come off its hinges. Det. Ingenito and Sgt. Samuels entered the apartment, then approached § 87(2)(b) and § 87(2)(b) (Board Review 04 and 05).

Det. Ingenito and Det. Russo provided consistent testimony that on June 16, 2022, they went to § 87(2)(b) to conduct surveillance on § 87(2)(b) regarding an active ICARD for his arrest. The officers did not conduct the investigation which resulted in the ICARD but were assigned to enforce the arrest as Warrant Detectives. Before dispatching to the location, Det. Ingenito conducted a search of § 87(2)(b) criminal history and reviewed his photograph on the ICARD, which he also showed to Det. Russo. Upon arriving at § 87(2)(b) apartment, the officers parked their vehicle at the end of the road near his apartment. Fifteen minutes after arriving, the officers observed § 87(2)(b) exit his apartment and begin approaching them. When § 87(2)(b) was approximately ten feet from the police vehicle, § 87(2)(b) observed Det. Ingenito and Det. Russo inside then turned around and ran back to his apartment. Det. Ingenito put the police vehicle in motion and followed behind § 87(2)(b) until they reached the area outside his apartment, then stopped and exited the vehicle, and pursued § 87(2)(b) on foot. Det. Ingenito yelled, “Stop! Police!” and § 87(2)(b) continued running until he made entry into his apartment and locked the door behind him. The chase was approximately 20 feet in length and Det. Ingenito reached the apartment door within 30 seconds of § 87(2)(b) closing and locking it. Neither Det. Ingenito nor Det. Russo ever lost sight of § 87(2)(b) from the time they initially observed him walking towards their vehicle. Det. Ingenito knocked on the locked door several times and made the verbal commands, “Police! Open the door” and “Come out.” There was no response from within the apartment. Det. Ingenito called § 87(2)(b) cellphone and explained to her that § 87(2)(b) had an arrest warrant and needed to come outside. Det. Ingenito stated that he told § 87(2)(b) it was an arrest warrant, not an ICARD, because in this circumstance both authorized the arrest of § 87(2)(b). Det. Ingenito heard § 87(2)(b) in the background and knew they were together inside the apartment. Det. Ingenito did not recall how § 87(2)(b) responded but stated that § 87(2)(b) refused to exit the apartment. Det. Ingenito knew that the exterior door that § 87(2)(b) had entered through and the one that Det. Ingenito was standing in front of was the only entrance and exit to the apartment, because the apartment was on the second floor above the restaurant which faces § 87(2)(b) and had no alternative points of entry. Det. Ingenito called Sgt. Samuels and explained what had happened. Sgt. Samuels arrived at the location approximately two minutes later. While waiting for Sgt. Samuels, Det. Ingenito continued knocking on the door and telling § 87(2)(b) that he needed to come outside. After discussing the details of § 87(2)(b) ICARD with Sgt. Samuels when he arrived and explaining the pursuit, Sgt. Samuels authorized Det. Ingenito to make forcible entry to effect an arrest of § 87(2)(b) under Hot Pursuit. Det. Ingenito’s understanding of Hot Pursuit is “when a felon closes the door during an arrest, and you make entry after them.” Det. Ingenito removed a

battering ram from his police vehicle, then he and Sgt. Samuels broke the front door and entered the apartment (Board Review 06, 07, and 08).

Cell phone video captured by § 87(2)(b) begins with the apartment door partially open as the officers have begun forcing it and does not capture any interaction before this. An officer is heard yelling, § 87(2)(b) come down” (at the 00:11 mark). The door comes off the hinges, Det. Ingenito enters the apartment and says, § 87(2)(b) let me see your hands please.” Det. Ingenito places § 87(2)(b) in handcuffs (Board Review 03).

Det. Ingenito’s Memo Book reads, “Subject was observed on sidewalk and took flight on foot at sight of I/O. Without losing sight of subject, subject was observed entering above address. I/O was able to gain access and apprehend subject without further incident. Wife and infant child present in location.” Sgt. Samuels’ Memo Book reads, § 87(2)(b) fled with [sic] into § 87(2)(b) HOT PURSUIT. His wife and child were present at location. Det. Ingenito’s case. The above event happen yesterday on June 16, 2021” (Board Review 09 and 10).

The Data Usage Log for Det. Ingenito’s departmental cellphone shows that he called § 87(2)(b) cellphone at 1:47 p.m. Det. Ingenito stated that § 87(2)(b) did not answer this call and Det. Ingenito did not recall if he left a voicemail but stated that this call was made before the officers observed § 87(2)(b) exit his house and served to notify § 87(2)(b) that the officers were outside § 87(2)(b) to arrest § 87(2)(b). Twelve minutes later, Det. Ingenito called § 87(2)(b) again at 1:59 p.m., as soon as § 87(2)(b) entered his house after the pursuit; this call was approximately three minutes long. Det. Ingenito placed a third call to § 87(2)(b) at 2:12 p.m., immediately before he and Sgt. Samuels made entry and thirteen minutes after § 87(2)(b) entered his house after the chase. Det. Ingenito stated that this was a final attempt to gain § 87(2)(b) compliance before battering the door. Based on the call log, an attempt to notify § 87(2)(b) of his arrest was made at 1:47 p.m., prior to the chase. The call log also illustrates thirteen minutes elapsed between § 87(2)(b) entering his house (1:59 p.m. phone call) and the officers making the forcible entry (which occurred immediately after the 2:12 p.m. call) (Board Review 11).

ICARD § 87(2)(b) was created on February 4, 2021, and names § 87(2)(b) as a “Perpetrator – Probable Cause to Arrest” for Reckless Endangerment in the 1st Degree and Criminal Possession of a Loaded Firearm for an incident that occurred on December 12, 2020. Between February 9th and June 4th, various investigatory measures were taken and noted in DD5s (Board Review 02 and 12).

United States v. Santana, 427 U.S. 38 found that a suspect may not defeat an arrest which has been set in motion in a public place, by the expedient of escaping to a private place. A suspect’s entry into their home during a hot pursuit does not halt the pursuit. The police may enter the location where a suspect has taken refuge, even if it is their own home. United States v. Santana defines Hot Pursuit as some sort of a chase, but it need not be an extended hue and cry in and about the public streets. The fact that a pursuit ends almost as soon as it begins does not render it any the less a hot pursuit sufficient to justify a warrantless entry into a defendant’s house (Board Review 13).

People v. Watson, 115 A.D.3d 687 found a true Hot Pursuit may justify a warrantless entry (Board Review 14).

On the incident date, § 87(2)(b) had an active ICARD that named him as a “Perpetrator – Probable Cause for Arrest.” Officer and civilian testimony are consistent that Det. Ingenito and Det. Russo did not initiate contact with § 87(2)(b) until he exited his property and was in a public space, in the alley outside his apartment. § 87(2)(b) testimony is that he was aware that it was a police vehicle he fled from when he turned to run into his apartment. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Upon Sgt. Samuels arrival on the scene and speaking with Det. Ingenito, he determined to make entry into § 87(2)(b) § 87(2)(g)

Allegation (C) Discourtesy: Sergeant Eric Samuels spoke discourteously to § 87(2)(b)

Allegation (D) Offensive Language: Sergeant Eric Samuels made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

After entering the apartment and while placing § 87(2)(b) in handcuffs, § 87(2)(b) asked Sgt. Samuels for his name. Sgt. Samuels provided her with a business card and said, “Sgt. Samuels, babe.” § 87(2)(b) was placed into handcuffs without incident and removed to a police vehicle outside the apartment, then removed to the 81st Precinct Stationhouse (Board Review 04 and 05).

After Det. Ingenito and Sgt. Samuels entered the apartment, they began to place § 87(2)(b) into handcuffs. While Det. Ingenito handcuffed § 87(2)(b) asked Sgt. Samuels for his name and Sgt. Samuels provided her with a business card. Sgt. Samuels denied recalling § 87(2)(b) response. Sgt. Samuels did not recall using the words ‘babe,’ ‘honey,’ or ‘baby’ with § 87(2)(b) and stated he could not think of a reason to use these words. § 87(2)(b) was then removed without further incident to the 81st Precinct Stationhouse and Sgt. Samuels had no further contact with § 87(2)(b) or § 87(2)(b) (Board Review 06, 07, and 08).

Cell phone video captures § 87(2)(b) asking, “Who’s the boss?” as Det. Ingenito places § 87(2)(b) in handcuffs. Sgt. Samuels approaches § 87(2)(b) asks to see his name and shield, and Sgt. Samuels removes his shield from under his shirt so that it is visible to § 87(2)(b). § 87(2)(b) asks, “Are you the boss?” and Sgt. Samuels says, “Yes I am, baby” (at the 01:17 mark). § 87(2)(b) asks Sgt. Samuels for his ID and Sgt. Samuels hands § 87(2)(b) a business card and says, “Here’s my card, baby” and “Hot Pursuit, babe” (at the 01:48 mark). § 87(2)(b) tells the officers that § 87(2)(b) is not resisting, and Sgt. Samuels says, “It’s over. No problem sugar” (at the 02:14 mark). Sgt. Samuels is not captured interacting with § 87(2)(b) again after exiting the apartment with § 87(2)(b) (Board Review 03).

According to NYPD Patrol Guide Procedure 200-02 the mission of the New York City Police Department, members of service are instructed to treat citizens with courtesy and professionalism. This procedure also states that one of the primary values of the NYPD is to respect the dignity of individuals and provide police services with civility and courtesy. Furthermore, according to Patrol Guide Procedure 203-10, members of service are explicitly prohibited from using discourteous

language or disrespectful remarks regarding another person's gender, gender identity/expression, or sexual orientation (Board Review 15 and 16).

It is unrefuted that Sgt. Samuels used the words "baby" and "babe" when addressing § 87(2)(b)

§ 87(2)(g)

Allegations not Pled

§ 87(2)(b) alleged that after the entry and during § 87(2)(b) arrest, she asked Det. Ingenito and Sgt. Samuels to show her an arrest warrant and they failed to do so, showing her the ICARD instead. As no arrest warrant existed for § 87(2)(b) only a Perpetrator ICARD, and because this ICARD was not used to garner consent for entry and does materially affect the above allegations, a Refusal to Show Arrest Warrant was not pled.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 17).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).
- Det. Frank Ingenito has been a member of service for 11 years and has been a subject in three CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Eric Samuels has been a member of service for 23 years and has been a subject in 10 CCRB complaints and 20 allegations, of which three were substantiated:
 - #201303865 involved a substantiated allegation of Abuse: Premises entered and/or searched against Sgt. Samuels. The Board recommended Charges and the NYPD imposed a forfeiture of 8 vacation days.
 - #201304641 involved two substantiated allegations of Abuse: Premises entered and/or searched against Sgt. Samuels. The Board recommended Charges and the NYPD imposed Formalized Training.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming emotional and physical injuries and seeking \$800,000 as redress (Board Review 23). There is no 50H hearing scheduled.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 15

Investigator: Cloey Romans Inv. Cloey Romans 8/30/2022
Signature Print Title & Name Date

Squad Leader: Owen Godshall SI Owen Godshall 08/26/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date